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Rough Justice

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Rough Justice

Justice in early Iowa reflected the rough but essentially honest character of the settlers themselves. In the settlement of disputes they were prone to proceed by the most direct methods: technicalities were viewed with distrust and impatience. The innate belief of the people in fair dealing and their desire to do justice to the parties concerned tended to promote a rather summary procedure. This was particularly true of the protection of property rights — their chief concern.

Of the early institutions of government in Iowa, the claim associations were among the first to be established. The settlers came before pre-emption privileges were extended over the region, and extralegal methods were devised against claim jumping.

Occasionally a newcomer would take possession of a claim in the absence of the squatter. Such a case arose in Scott County and was settled with customary dispatch. A sheriff having been sent for and a posse assembled, the occupant was ordered to leave the cabin and to vacate the premises. This he refused to do. The posse then proceeded to hitch a yoke of oxen to the corner of the cabin "and as the timbers began to show signs of part-

ing" the claim jumper expressed a willingness to leave immediately. He was then shown "the most feasible" and "quickest route" across the river.

These claim associations protected the squatters until the land was offered for sale and even then prevented outsiders from overbidding them. The first public land sale in Iowa was thus an event of importance and thousands of settlers attended it in the fall of 1838. Speculators, too, came in considerable numbers — some wishing to buy land and others desiring to loan money to prospective purchasers at the rate of fifty per cent a year. Only one or two townships could be sold in a day "and when the land in any one township was offered, the settlers of that township constituted the army on duty for that day, and surrounded the office for their own protection, with all the other settlers as a reserve force, if needed." Prospective buyers took care to respect the settlers' claims.

Frontier people are active and impulsive. They judge quickly and act promptly. While the pioneers of Iowa had profound respect for the law, they were impatient with tedious judicial processes. Technical rules of evidence and the slow, formal procedure of grand jury indictments were irksome. They wanted to settle a case while it was fresh and upon such evidence as appeared to them to be good. With them a confession was better than the testimony of an eyewitness.

Offenses against persons as well as property oc-

curred in the early days of Iowa. The first murder trial in the Iowa country was in 1834. Patrick O'Connor was accused of killing George O'Keaf. Some were of the opinion that O'Connor should be hanged at once, and a rope was brought for that purpose, but the sober-minded element insisted that the matter should be more fully investigated. Accordingly, O'Connor was taken to Dubuque, only a short distance away, where an impromptu trial was held. Both the people and the defendant selected counsel who in turn summoned from those present twenty-four men. The accused was then directed to choose from this panel twelve persons to act as jurors. O'Connor admitted that he had shot O'Keaf and, after a few witnesses were examined, the jury retired. At the end of an hour's deliberation, they brought in a verdict of murder in the first degree and executed him.

Another case of summary and rather unique justice occurred in connection with the Bellevue war. A group of alleged horse thieves having been judged guilty, the committee of citizens in charge of the trial determined their punishment by voting "white beans for hanging, colored beans for whipping." As a result the outlaws were whipped and by order of the committee placed in a boat, given three days' rations, and sent down the Mississippi.

Civil cases in early Iowa were also sometimes settled by unique methods. The earliest civil suit in Davis County is said to have been brought before

a justice of the peace. On the day set for the hearing the whole neighborhood turned out to see the trial, swap horses, and drink whisky according to the custom. As the time for the trial approached, the parties to the dispute became alarmed, not knowing what turn events might take once the case was in "the hands of the law." So a compromise was reached by which it was agreed to leave the matter to three of the settlers who were empowered to decide how much, if anything, the defendant must pay. The decision having been reached the settlers witnessed the actual transfer of property, both parties "treated" the crowd, and "all returned to their homes well pleased."

In due time, however, courts of a more formal nature were established. These early tribunals were rather imperfect in organization and their procedure was often faulty. The pioneers themselves were not much more concerned with intricacies of the law than with niceties of etiquette.

Since those pioneer days many changes have come about, particularly in the methods and machinery for securing justice. The more diversified system of courts, the highly developed rules of procedure, the commodious courthouses, and the better trained judges stand in contrast to the meager facilities and summary ways of early days.

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